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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,099	03/13/2001	Gayle Marie Frankenbach	8244	2087

27752 7590 07/01/2005

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EXAMINER

HAMLIN, DERRICK G

ART UNIT PAPER NUMBER

1751

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/805,099

Applicant(s)

FRANKENBACH ET AL.

Examiner

Derrick G. Hamlin

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-80 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-80 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Evaluations of level of ordinary skill in the art requires consideration of factors such as various prior art approaches employed, types of problems encountered in the art, rapidity with which innovations are made, sophistication of technology involved, educational background of those actively working in the field, commercial success, failure of others, and the inventor's educational level.

The "person having ordinary skill" in this art has the capability of understanding the scientific and engineering principles applicable to the claimed invention. The references of record in this case reasonably reflect this level of skill.

Claims 1-6 and 8-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Trinh et al. (US 6495058).

Trinh discloses softener actives that provide color maintenance benefits for fabrics. In order to inform the consumer, the compositions containing fabric softener actives are placed in packages in association with information that advises the consumer of the benefit. (abstract) The benefits being packaged in containers in association with instructions to use the higher levels of softener needed to provide the

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benefits, which include at least one benefit selected from improved color protection; reduced wrinkling; (col. 4, lines 24-29) The process herein uses compositions that contain as an essential component from about 2% to about 80% of a fabric softener active, either the normal ones, or, preferably, the preferred ones selected from the compounds identified hereinafter, and mixtures thereof for liquid rinse-added fabric softener compositions. (col. 4, lines 62-67) In one embodiment, a clear solution, additives, such as a from 0% to about 15%, perfume, 0% to about 2%, of stabilizer; an effective amount, solvents like ethanol; isopropanol; propylene glycol; 1,3-propanediol; propylene carbonate; hexylene glycol; etc., said water soluble solvents being at a level that will not form clear compositions by themselves, an effective amount to improve clarity, of water soluble calcium and/or magnesium salt, preferably chloride; and the balance being water. (col. 16, lines 17-50) Starch is a cationic polymers of the present invention and its cationic derivatives may also be used. (col. 44, lines 10-14)

The reference is anticipatory.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 14-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trinh et al. (US 6495058) for the reasons set forth in the rejection above.

The reference does not teach the instant invention with sufficient specificity to constitute anticipation. The reference fails to teach all of the all of the instantly claimed properties, nor does it teach the marketing, distribution and instruction information.

The reference does teach a fabric softener method and composition capable of being used to reduce wrinkles that provides information. All of the instantly claimed materials are used in the instantly claimed manner, which would result in a very similar composition. Therefore one would reasonably expect that similar compositions would have similar properties. Additionally, there would be a reasonable expectation of success to modify the prior art to arrive at the instantly claimed invention because the prior art suggest selling a product which could easily be sold in any of the instantly claimed ways. In order for a product to be sold to the public the there must be a way to distribute and market it or it would not reach the customer. Here, there is nothing novel about how the information is disseminated or how the product is distributed. There are no superior or unexpected results that would make the method improving the performance of the composition non-obvious in view of the obvious marketing and distribution schemes. Therefore there would be a reasonable expectation of success to modify the prior art to arrive at the instantly claimed invention because the prior art suggest selling a product, which could easily be sold in any of the instantly claimed ways. Therefore there would be a reasonable expectation of success to modify the prior art to arrive at the instantly claimed invention because the prior art suggest selling a product which could easily be sold in any of the instantly claimed ways. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made

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to practice the instantly claimed method in view of the references teaching of a fabric softener method and composition capable of being used to reduce wrinkles that provides information.

In view of the forgoing, the above claims have failed to be patently distinguishable over prior art.

The remaining references listed on form(s) 892 and/or 1449 have been reviewed by the examiner and are considered to be cumulative to or less material than the prior art references relied upon in the rejection above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derrick G. Hamlin whose telephone number is (571) 272-1317. The examiner can normally be reached on Monday-Fridays from ~8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta, can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Derrick G. Hamlin

6/27/05

DH


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